

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GEORGE R. ADAMS,
Appellant,
vs.
ISIDRO BACA, WARDEN,
Respondent.

No. 73689

FILED

FEB 13 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

George R. Adams appeals from an order of the district court denying the postconviction petition for a writ of habeas corpus he filed on February 15, 2017.¹ First Judicial District Court, Carson City; James E. Wilson, Judge.

First, Adams argues the district court erred by denying his claim the Nevada Department of Corrections (NDOC) improperly declined to apply his statutory credits toward his minimum term. The district court denied the petition because it found Adams is currently serving a prison term for burglary, a category B felony, *see* NRS 205.060(2), and Adams committed his crime in 2010.² For those reasons, the district court found

¹This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).

²To the extent Adams claims the NDOC is basing its denial of statutory credits toward his minimum term based on language in Adams' judgment of conviction rather than the statute he was convicted under,

the NDOC may only apply Adams' statutory credits toward his maximum term pursuant to NRS 209.4465(8)(d).³ Given these circumstances, we conclude the district court did not err by denying this claim.

Second, Adams argues the district court erred by denying his claim the failure to apply his statutory credits toward his minimum term was a violation of the Equal Protection Clause. Adams failed to demonstrate a violation of the Equal Protection Clause because he failed to demonstrate he was similarly situated to those whose sentences did not fall within NRS 209.4465(7)(b)'s exception, and precluding the most serious offenders from early release is rationally related to a legitimate governmental interest. *See Glauner v. Miller*, 184 F.3d 1053, 1054 (9th Cir. 1999) (“[P]risoners are not a suspect class and there is no fundamental constitutional right to parole.”); *Gaines v. State*, 116 Nev. 359, 371, 998 P.2d 166, 173 (2000) (discussing levels of review). Therefore, the district court did not err by denying this claim.

Finally, Adams argues the district court erred by denying his claim the failure to apply his statutory credits toward his minimum term violated the Ex Post Facto Clause. Adams' claim lacks merit. A requirement for an Ex Post Facto Clause violation is that the statute applies to events occurring before it was enacted. *Weaver v. Graham*, 450 U.S. 24,


Adams' claim lacks merit. He is being denied statutory credit because he was convicted of a category B felony committed in 2010.

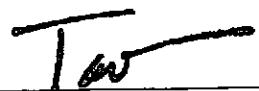
³To the extent Adams claims NRS 209.4465(8)(d) renders NRS 209.4465(7)(b) “nugatory,” this claim lacks merit. NRS 209.4465(8)(b) merely limits which persons NRS 209.4465(7)(b) applies to.


29 (1981). NRS 209.4465(8) was enacted three years before Adams' crime, see 2007 Nev. Stat., ch. 525, § 5, at 3177, and its application does not violate the Ex Post Facto Clause.

Having concluded Adams' claims lack merit, we

ORDER the judgment of the district court AFFIRMED.⁴


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. James E. Wilson, District Judge
George R. Adams
Attorney General/Carson City
Carson City District Attorney
Carson City Clerk

⁴While the district court did not specifically address Adams' motion to appoint counsel, we conclude the district court did not abuse its discretion by not appointing counsel to represent Adams in this matter. See NRS 34.750(1); *Renteria-Novoa v. State*, 133 Nev. ___, ___, 391 P.3d 760, 760-61 (2017).